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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,717	08/25/2003	Josef Hallermeier	23300	2160
7590 03/18/2008				
Josef Hallermeier Bergweg 2 Assling, 85617 GERMANY			EXAMINER NGUYEN, QUANG N	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 03/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/647,717

Applicant(s)

HALLERMEIER, JOSEF

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 20040416
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

1. This Office Action is responsive to the Application SN 10/647,717 filed on 08/25/2003. Claims 1-56 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 04/16/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 50-56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

6. Claims 50-56 are not limited to tangible embodiments. The claims recited "A PDA program product comprising a PDA **usable** medium ..." is nonstatutory since "usable medium" could broadly include "transmission-type medium such as digital and analog communications links, wired or wireless communications links using transmission forms such as, for example, radio frequency and light wave transmissions". As such, the claim is not limited to statutory subject matter and is therefore nonstatutory.

To overcome this type of 101 rejection, Examiner respectfully suggests Applicants to amend the claim to include computer/PDA readable storage medium to store computer instructions executable by a computer processor to perform the steps of (for example, the claim should be amended as "A PDA program product comprising a PDA **readable storage** medium having control logic stored therein for ..."). See MPEP 2105, section IV. -- DETERMINE WHETHER THE CLAIMED INVENTION COMPLIES WITH 35 U.S.C. 101 – under subsection 1. Nonstatutory subject matter.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lym et al. (US 2001/0011310 A1).**

9. As to claim 1, **Lym** teaches a method of processing digital information comprising the steps of: (a) receiving digital information at an input connected to a recording buffer; (b) filling the recording buffer with information (*the continuous stream of data is stored within the receive buffers 100*); and (c) simultaneously with steps (a) through (b), (i) monitoring the recording buffer to determine whether it is filled; (ii) transferring the contents of the filled recording buffer to a processing buffer (*when the current receive buffer 100 is full, the data within the current receive buffer 100 is processed and transferred to the process buffer A*); (iii) monitoring the processing buffer to determine whether a predetermined amount of the processing buffer is filled; and (iv) writing the contents of the processing buffer to a storage medium when a predetermined amount of the processing buffer has been filled (*when the process buffer A is full, it is then transferred to the storage*) (**Lym, Fig. 4 and paragraphs [0008] and [0028]**).

10. As to claim 7, **Lym** teaches the method of claim 1, and further comprising the step of reallocating each recording buffer as available for receipt of digital information after its contents have been written to the processing buffer (*when the data within the current receive buffer 100 has been transferred to the process buffer A, then the receive buffer 100 is added back into the series of receive buffers to receive more captured packets of data within the continuous stream of data*) (**Lym, paragraph [0028]**).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lym, in view of Morikawa et al. (US 2004/0059546 A1), hereinafter "Morikawa".**

13. As to claims 2-5, **Lym** teaches the method of claim 1, but does not explicitly teach displaying a real time waveform (i.e., status information) of the digital information concurrently with the markers marking selected portions of the waveform on a display.

In an analogous art, **Morikawa** teaches a method and system for analyzing a digital multiplex signal divided into slot units, which is utilized in a mobile communication system such as mobile cellular phones or the like (PDA or similar small multifunction devices), wherein the display control section 26 displays a waveform based on the digital signal (waveform data) positioned in the storage section 10 concurrently with the markers designated on the waveform by the slot markers (**Morikawa, paragraphs [0077-0080]**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the features of displaying a real time waveform (i.e., status information) of the digital information concurrently with the markers marking selected portions of the waveform on a display, as disclosed by **Morikawa**, into the teachings of **Lym**. One would be motivated to do so to allow digital multiplex signal divided into slot units is analyzed as a signal to be measured , and markers can be designated, in predetermined slot units, for a waveform displayed on a screen in which the signal analysis results of predetermined slot units can be easily read, accessed and processed (**Morikawa, paragraphs [0022-0023]**).

14. As to claim 6, **Lym-Morikawa** teaches the method of claim 1, and further comprising the step of color-coding the waveforms (*displaying the respective slot markers 1, 2 on the waveform in different colors*) (**Morikawa, paragraphs [0114-0115]**). The same motivations regarding the obviousness of claims 2-5 would be applied equally well to claim 6.

15. Claims 8-49 recite method claims that do not recite or define above method claims 1-7; therefore, they are rejected under the same rationale.

16. Claims 50-56 are corresponding program product claims of method claims 1, 8, 15, 22, 29, 36 and 43; therefore, they are rejected under the same rationale.

Conclusion

17. Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

18. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharma, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang N. Nguyen/
Primary Examiner, Art Unit 2141